

Order

Michigan Supreme Court
Lansing, Michigan

April 2, 2008

Clifford W. Taylor,
Chief Justice

135811 & (30)

Michael F. Cavanagh
Elizabeth A. Weaver
Marilyn Kelly
Maura D. Corrigan
Robert P. Young, Jr.
Stephen J. Markman,
Justices

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff-Appellee,

v

SC: 135811
COA: 281006
Ingham CC: 07-000118-FC

CHARLES WILLIAM MERCER, JR.,
Defendant-Appellant.

On order of the Court, the motion for immediate consideration is GRANTED. The application for leave to appeal the December 18, 2007 order of the Court of Appeals is considered. We direct the Clerk to schedule oral argument on May 7, 2008, on whether to grant the application or take other preemptory action. MCR 7.302(G)(1). At oral argument the parties shall address whether the constitutional due process standard for dismissal of a criminal prosecution based on prearrest delay requires a showing by the criminal defendant of both (1) actual and substantial prejudice due to the delay, and (2) the intent by the prosecution to gain a tactical advantage by means of the delay, and if not, whether and how a balancing test should be employed to consider these two factors. The parties may file supplemental briefs no later than April 25, 2008, but they should not submit mere restatements of their application papers.

The Prosecuting Attorneys Association of Michigan and the Criminal Defense Attorneys of Michigan are invited to file briefs amicus curiae no later than April 25, 2008. Other persons or groups interested in the determination of the issue presented in this case may move the Court for permission to file briefs amicus curiae.



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I, Corbin R. Davis, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

April 2, 2008

Corbin R. Davis

Clerk